IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No.2397 of 1984 (O & M)
Date of Decision:26.07.2018

Ghasi Ram ...Appellant

Versus

Mange Ram and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amarjit Singh, Advocate
for the appellant.

Mr. Vishwajeet, Advocate
for respondents No.1 and 31.

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ANIL KSHETARPAL, J.(Oral)

Defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below.

No doubt, appeal was admitted on 30.10.1985, however, thereafter the case has remained pending in this Court for one reasons or the other. The case was also dismissed for non-prosecution, restoration application also remain pending. Service was not complete. On 20.07.2018, it was noticed that this appeal is pending for the last 34 years. Counsel for the appellant was requested to come prepared for final arguments. It was observed that if there is some substance in the appeal, the Court would consider issuance of fresh notice.

Today, learned counsel for the appellant has argued the appeal. Learned counsel has submitted that Civil Court does not have jurisdiction

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regarding partition of agricultural land in view of the bar contained in Section 158 of the Punjab Lands Revenue Act, 1887.

It may be noticed that the plaintiffs had filed a suit for possession by way of partition claiming that during consolidation of holdings, 32 families were allocated 12 kanals and 5 marlas of land for residential purposes i.e. extended abadi. Thereafter, the defendant had taken over possession of more land than his share and started cultivating. He in connivance with the Patwari had also got an entry made in the khasra girdawari.

Plaintiffs in order to prove that fact have brought on record resolution of the consolidation authorities Ex.P-3 as referred in the learned trial Court judgment, which clearly provides that the land measuring 12 kanals and 5 marlas was being allotted to 32 families for their settlement in extended abadi.

Still further, when Gram Panchayat initiated proceedings against the appellant-defendant, he himself took a stand that this land was allotted to 32 families for extended abadi and, therefore, Panchayat has no right, title or interest.

Both the Courts below relying upon these two material documents apart from other evidence, have chosen to decree the suit. The argument raised that learned civil Court does not have jurisdiction, is just to be noticed and rejected because the property in dispute is part of the extended abadi as non-proprietors living in the village were settled during consolidation of holdings by the officials with the consent of proprietors of the village. Such land cannot be said to be an agricultural land.

In such circumstances, this Court does not find any good

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ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Regular second appeal is dismissed.

All the miscellaneous applications, if any, are disposed of, in view of the above said judgment.

26.07.2018 **(ANIL KSHETARPAL)**
sheetal **JUDGE**

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No

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